

ORDINANCE NO. 09-07(2)

AN ORDINANCE TO AMEND CHAPTER 7, HEALTH AND SAFETY, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 7, Health and Safety, is hereby amended and reordained as follows:

By Adding:

Article V	Uncontrolled Vegetation
Sec. 7-501	Definitions
Sec. 7-502	Grass, Weeds, Brush and Other Uncontrolled Vegetation
Sec. 7-503	Exemptions
Sec. 7-504	Enforcement
Sec. 7-505	Lien Against Property
Sec. 7-506	Civil Penalty
Sec. 7-507	Criminal Penalty

CHAPTER 7. HEALTH AND SAFETY

ARTICLE V. UNCONTROLLED VEGETATION

Sec. 7-501. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) *Developed.* The term “developed” means any real property where improvements have been made to change it from its natural state.

(2) *Improvements.* The term “improvements” means permanent changes or additions to real property that enhance its value or utility or adapt it for new or further purposes.

(3) *Natural landscaping.* The term “natural landscaping” means a managed area specifically set aside by a land owner for conservation purposes, using native plants, which aims to blend residential or commercial property into the natural surroundings. Natural landscaping shall:

(i) not encroach within a minimum of five (5) feet from any developed areas, roads, or buildings;

(ii) include a plan to identify and manage native plant material as well as a plan to manage and eliminate noxious weeds; and

(iii) include and maintain at least eighty percent (80%) native plants (by area coverage).

(4) *Owner.* The term “owner,” applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or a part of such building or land.

(5) *Undeveloped.* The term “undeveloped” means any real property that remains unimproved.

(6) *Vacant.* The term “vacant” means any real property, with or without improvements, that is not occupied.

(Ord. 09-7(2), 9-2-09)

Sec. 7-502. Grass, Weeds, Brush and Other Uncontrolled Vegetation.

A. Except as provided in section 7-503, no owner of any vacant developed or undeveloped property, including property upon which buildings or other improvements are located, shall permit to remain thereon, any grass, weeds, brush or other uncontrolled vegetation in excess of twelve (12) inches in height where such vegetation is located:

- (i) on any vacant developed property, or
- (ii) on that portion of any undeveloped property that is within seventy-five (75) feet of any public right-of-way or developed property under separate ownership.

B. Upon remedying any such unlawful condition, the owner shall dispose of such vegetation in a lawful manner that eliminates any potential fire hazard.

State law reference--Va. Code § 15.2-901(A)(3).

(Ord. 09-7(2), 9-2-09)

Sec. 7-503. Exemptions.

Notwithstanding section 7-502, this article shall not have any force and effect within

- a) the corporate limits of the Town of Scottsville;
- b) the Monticello Historic District;
- c) the Rural Areas District;
- d) areas used for pastures, under cultivation, forested, or subject to utility transmission easements;
- e) areas where the vegetative growth is regulated under state or federal laws or programs;
- f) any stream buffer required by County ordinance or protected under permanent conservation easement;
- g) areas under an approved plan of natural landscaping;
- h) property designated through an approved zoning or subdivision plat as open space, green space, conservation or preservation area and that is intended to remain in its natural state;
- i) public park lands; or
- j) stormwater management facilities such as detention ponds.

(Ord. 09-7(2), 9-2-09)

Sec. 7-504. Enforcement.

A. Whenever the County Executive or his designee has determined by reports, inspections or otherwise, that any such unlawful condition exists, he shall notify the owner of the land upon which the violation exists to cut or cause to be cut the grass, weeds, brush or other uncontrolled vegetation within such reasonable time as is specified in the notice. Such notice shall be in writing, shall be delivered by hand or mailed to the last known address of the owner and shall be complied with by the owner.

B. If such grass, weeds, brush or other uncontrolled vegetation is not cut within the required time, the County Executive or his designee may cause them to be cut and the costs and expenses thereof, including an administrative handling charge of one hundred dollars (\$100.00), shall be billed to the property owner, and if not paid, shall be added to and collected in the same manner as the real estate tax on such property. The County Executive or his designee shall certify the costs and expenses to the Director of Finance of the county, who shall collect such amount; and if such amount shall remain unpaid for a period of sixty (60) days, then the Director of Finance shall certify such charges as being unpaid to the clerk of the circuit court of the county, who shall maintain a record book of such delinquent costs and expenses in the records of the clerk's office.

(Ord. 09-7(2), 9-2-09)

Sec. 7-505. Lien Against Property.

Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1 of the Code of Virginia. The County may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

State law reference--Va. Code § 15.2-901(B).

(Ord. 09-7(2), 9-2-09)

Sec. 7-506. Civil Penalty.

Violations of this section shall be subject to a civil penalty of fifty dollars (\$50) for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within twelve (12) months of the first violation shall be two hundred dollars (\$200). Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of three thousand dollars (\$3,000) in a twelve (12) month period.

State law reference--Va. Code § 15.2-901(C).

(Ord. 09-7(2), 9-2-09)

Sec. 7-507. Criminal Penalty.

In the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a twenty-four (24) month period, such violations shall be a Class 3 misdemeanor. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

State law reference--Va. Code § 15.2-901(D).

(Ord. 09-7(2), 9-2-09)

I, Ella W. Jordan, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of _____ to _____, as recorded below, at a regular meeting held on _____.

Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Boyd	_____	_____
Mr. Dorrier	_____	_____
Ms. Mallek	_____	_____
Mr. Rooker	_____	_____
Mr. Slutzky	_____	_____
Ms. Thomas	_____	_____